



# UNITED STATES PATENT AND TRADEMARK OFFICE

10  
UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,154	03/29/2004	Mark Steven Infalt	6003-0001	2484

7590                  06/03/2005

INDIANO VAUGHAN ROBERTS & FILOMENA, LLP  
Suite 850  
One North Pennsylvania Street  
Indianapolis, IN 46204

EXAMINER
----------

LEGESSE, NINI F

ART UNIT	PAPER NUMBER
	3711

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/812,154	INFALT, MARK STEVEN
	Examiner Nini F. Legesse	Art Unit 3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 March 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-27 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 3,9 and 16-20 is/are allowed.
- 6) Claim(s) 1,2,4,5,7,11-15 and 21-27 is/are rejected.
- 7) Claim(s) 6,8,10 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

**Applicant's response is acknowledged on 03/28/05.**

### ***Specification***

The abstract of the disclosure is objected to because it is over 150 words.

Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1, 2, 4, 15, 21, 24, and 25-27** are rejected under 35 U.S.C. 102(b) as being anticipated by McAuliffe (US Patent No. 4,913,419).

**Regarding claims 1 and 2,** McAuliffe discloses an adjustable stand (combination of the base, 11 and 34) comprising a first pad connector (14); and a swing pad (12) having a flat front surface and comprising a first attachment spot (the area wherein one of element 22 is located) for matingly attaching said swing pad to said first pad connector, and wherein the adjustable stand can be adjusted to support the swing pad in an elevated position off the ground (see Fig. 6).

**Regarding claim 4,** given the broad interpretation, the multiple holes located on element 11 are considered as a position reference scale (see Fig. 6).

**Regarding claim 15**, referring to Fig. 6, the lower area wherein element 22 is located is considered as a second attachment spot.

**Regarding claim 21**, the recited adjustable feature of the arms is disclosed in column 4, lines 8+.

**Regarding claims 24-27**, for the rotational capabilities of the first and second axis please see Fig. 6 and column 4, lines 8+.

**Claims 1, 2, 4, 11, 12, and 13** are rejected under 35 U.S.C. 102(b) as being anticipated by Wiseman et al. (US Patent No. 5,642,880).

**Regarding claims 1 and 2**, Wiseman discloses an adjustable stand (32) comprising a first pad connector (22); and a swing pad (44) having a flat front surface and comprising a first attachment spot (the area wherein elements 36 and 44 meet) for matingly attaching said swing pad to said first pad connector, and wherein the adjustable stand can be adjusted to support the swing pad in an elevated position off the ground (see Fig. 5). Wiseman discloses a first arm (32) and a second arm (36).

**Regarding claim 4**, indicia 14 is considered as a position indicator.

**Regarding claim 11**, second arm (36) is adjustable.

**Regarding claim 12**, second arm (36) is capable of being rotateable about the base.

**Regarding claim 13**, the swing pad (44) is capable of rotating about the second arm (32).

**Claims 1, 2, 15, 22** are rejected under 35 U.S.C. 102(b) as being anticipated by Meeker et al. (US Patent No. 4,815,743).

**Regarding claims 1 and 2,** Meeker discloses an adjustable stand (18) comprising a first pad connector (48,50); and a swing pad (12) having a flat front surface and comprising a first attachment spot (the area wherein element 56 is located) for matingly attaching said swing pad to said first pad connector, and wherein the adjustable stand can be adjusted to support the swing pad in an elevated position off the ground (see Figs. 1-3).

**Regarding claim 15,** any back area of element 12 could be considered as a second attachment spot.

**Regarding claim 22,** second arm 22 is capable of rotating about a first axis.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 5, 7, 11, 21, and 23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Meeker in view of Stewart (US Patent No. 3,698,721). Meeker fails to teach the use of adjustable elbow and adjustable connector. However, the use of multiple adjustable elbows with legs is not new in the golf art. Stewart is a

training aid reference that teaches the use of multiple connectors/elbows (see 24 and 25 in Fig. 2). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Meeker device to have adjustable elbows or connectors as taught by Stewart in order to make the device more adjustable and to make it more compact for storage.

**Claim 14** is rejected under 35 U.S.C. 103(a) as being unpatentable over Meeker in view of Czaja (US 6,582,319).

Meeker fails to disclose a plurality of apertures. However, Czaja discloses the use of plurality of apertures (61) in his training device. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the Meeker device with apertures as taught by Czaja in order to provide the golfer with a tactile feedback when he/she has achieved the ideal back swing location.

#### ***Allowable Subject Matter***

**Claims 3, 9, and 16-20** are allowed.

**Claims 6, 8, 10, and 18-20** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nini F. Legesse whose telephone number is (571) 272-4412. The examiner can normally be reached on 9:30 AM - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571) 272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Fini F. Legusse  
NFL

05/20/05